



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JAN 11 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Beth Pierson
Environmental Manager
The Gavilon Group, LLC
11 ConAgra Drive
Omaha, Nebraska 68102

Re: Notice of Violation
Gavilon, Alexis, Illinois

Dear Ms. Pierson:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to The Gavilon Group, LLC (you or Gavilon) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you are in violation of the Illinois State Implementation Plan, at your Alexis, Illinois facility.

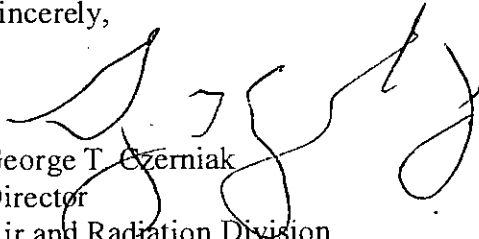
We have several enforcement options under Section 113 of the CAA, 42 U.S.C. § 7413. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Jennifer Wilson. You may call her at 312-353-3115 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,



George T. Czerniak
Director
Air and Radiation Division

Enclosure

cc: Ray Pilapil
Compliance and Systems Management Section
Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

The Gavilon Group, LLC
400 East Palmer Ave.
Alexis, Illinois 61412

Proceedings Pursuant to
the Clean Air Act,
42 U.S.C. §§ 7401 et seq.

**NOTICE
OF VIOLATION**

EPA-5-13-IL-12

NOTICE OF VIOLATION

The U.S. Environmental Protection Agency is issuing this Notice of Violation under Section 113(a)(1) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(a)(1). EPA finds that The Gavilon Group, LLC (Gavilon) in Alexis, Illinois is in violation of the Illinois State Implementation Plan (SIP), as follows:

Regulatory Authority

A. Clean Air Act

1. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a SIP that provides for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS).
2. Section 113(a) of the CAA, 42 U.S.C. § 7413(a)(1), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable implementation plan, regulation,

B. Illinois State Implementation Plan

3. On May 31, 1972, EPA approved 35 Illinois Administrative Code (Ill. Admin. Code) § 201.141 as part of the federally enforceable SIP for the State of Illinois. *See* 37 Fed. Reg. 10862. 35 Ill. Admin. Code § 201.141 is set forth in the Illinois SIP at Rule 102, which states that "[n]o person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as...to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter."
4. On May 31, 1972, EPA approved Illinois Pollution Control Board (IPCB) Rule 103, as part of the federally enforceable SIP for the State of Illinois. 37 Fed. Reg. 10842.

5. IPCB Rule 103 is codified at 35 Ill. Admin. Code §§ 201.142 and 201.143 and set forth in the Illinois SIP at Rules 103(a)(1) and 103(b)(1).

6. The Illinois SIP at Rule 103(a)(1) [35 Ill. Admin. Code § 201.142] states that no person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source of air pollution equipment, without first obtaining a construction permit from the Illinois Environmental Protection Agency (IEPA).

7. The Illinois SIP at Rule 103(b)(1) [35 Ill. Admin. Code § 201.143] provides that no person shall cause or allow the operation of any emission source or new air pollution control equipment, for which a construction permit is required, without first obtaining an operating permit from IEPA.

8. On February 21, 1980, EPA approved IPCB Rule 203 as part of the federally enforceable SIP for the State of Illinois. 45 Fed. Reg. 11493. IPCB Rule 203 is codified at 35 Ill. Admin. Code §§ 212.461, 212.462, and 212.463.

9. The Illinois SIP at Rule 203(d)(9)(A) [35 Ill. Admin. Code § 212.461(b)] sets forth certain housekeeping practices that all grain-handling and grain-drying operations must implement regardless of size. These include:

- i. Air pollution control devices shall be checked daily and cleaned as necessary to insure proper operation.

- ii. Cleaning and Maintenance.

- a. Floors shall be kept swept and cleaned from boot pit to cupola floor. Roof or bin decks and other exposed flat surfaces shall be kept clean of grain and dust that would tend to rot or become airborne.
- b. Cleaning shall be handled in such a manner as not to permit dust to escape to the atmosphere.
- c. The yard and surrounding area, including but not limited to ditches and curbs, shall be cleaned to prevent the accumulation of rotting grain.

- iii. Dump pit.

- a. Aspiration equipment shall be maintained and operated.
- b. Dust control devices shall be maintained and operated.

- iv. Head House. The head house shall be maintained in such a fashion that visible quantities of dust or dirt are not allowed to escape to the atmosphere.

- v. Property. The yard and driveway of any source shall be asphalted, oiled, or equivalently treated to control dust.

vi. Housekeeping Check List. Housekeeping check lists to be developed by the Agency shall be completed by the manager and maintained on the premises for inspection by Agency personnel.

10. The Illinois SIP at Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462] provides that new and modified grain handling operations (for which construction or modification commenced on or after June 30 1975), with an annual grain through-put of 300,000 bushels or greater, shall, inter alia, apply for construction and operating permits pursuant to Rule 103 [35 Ill. Admin. Code §§ 201.142 and 201.143], and comply with the control equipment requirements of Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462].

11. The Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(1) [35 Ill. Admin. Code § 212.462(b)(1)(A)] requires that grain-handling operations apply induced draft to major dump pits and their associated equipment (including, but not limited to boots, hoppers and legs) to such an extent that a minimum face velocity is maintained, at the effective grate surface, sufficient to contain particulate emissions generated in unloading operations in accordance with the formula provided.

12. The Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(2) [35 Ill. Admin. Code § 212.462(b)(1)(B)] requires that the induced draft air stream for grain-handling facilities having a grain throughput of not more than 2 million bushels per year or located outside of a major population area (MPA) is confined and conveyed through air pollution control equipment which has an overall rated and actual particulate collection efficiency of not less than 90% by weight.

13. The Illinois SIP at Rule 203(d)(9)(B)(ii)(a)(4) [35 Ill. Admin. Code § 212.462(b)(1)(D)] also requires that means or devices (including, but not limited to quick-closing doors, air curtains or wind deflectors) shall be employed to prevent a wind velocity in excess of 50% of the induced draft face velocity at the pit; provided, however, that such means or devices do not have to achieve the same degree of prevention when the ambient air wind exceeds 25 mph.

14. The Illinois SIP at Rule 203(d)(9)(B)(iii) [35 Ill. Admin. Code § 212.462(c)] requires pollution controls for the internal transferring area. The rule provides:

(a) Internal transferring area shall be enclosed to the extent necessary to prohibit visible particulate matter emissions directly into the atmosphere.

(b) Air contaminants collected from internal transfer operations for grain-handling facilities having a grain throughput of not more than 2 million bushels per year or located outside a major population area shall be conveyed through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 90% by weight prior to release into the atmosphere.

15. The Illinois SIP at Rule 203(d)(9)(B)(i)(b) [35 Ill. Admin. Code § 212.462(a)(2)] requires that air contaminants collected from cleaning and separating operations shall be conveyed through air pollution control equipment which has an overall rated and actual particulate collection efficiency of not less than 90% by weight.

16. The Illinois SIP at Rule 203(d)(9)(B)(iv)(a) [35 Ill. Admin. Code § 212.462(d)(1)] requires truck and hopper car loading to “employ socks, sleeves or equivalent devices which extend six inches below the sides of the receiving vehicle.”

17. On May 29, 2002, EPA approved as part of the federally enforceable SIP for the State of Illinois, revisions to Section 9(f) of the Illinois Environmental Protection Act, 415 ILCS 5/9(f), which modified the particulate matter control requirements for certain rural grain elevators in Illinois. *See* 67 Fed. Reg. 37323-37325.

18. Effective July 29, 2002, EPA incorporated by reference Section 9 (including revised Section 9(f)) into the federally enforceable SIP for the State of Illinois. Section 9 was set forth in the Illinois SIP as Act 9.

19. Act 9 of the Illinois SIP [Section 9(f) of the Illinois Environmental Protection Act, 415 ILCS 5/9], states in pertinent part that any grain elevator located outside of a “major population area” shall be exempt from the requirements of the Illinois SIP at Rule 203(d)(9)(B) [35 Ill. Admin. Code § 212.462], provided that the elevator:

(a) does not violate the pollution prohibitions in subsection (a) of Act 9 of the Illinois SIP [Section 9 of the Illinois Environmental Protection Act], or does not have a certified investigation on file with the IEPA; and

(b) is not required to obtain a Clean Air Act Program Permit pursuant to [415 ILCS 5/39.5].

20. The Illinois SIP at Part 211 (M words) [35 Ill. Admin. Code § 211.3610] defines “major population area” *inter alia* to include “the municipalities of Galesburg and East Galesburg, plus a zone extending two miles beyond the boundaries of said municipalities in Warren County.”

21. Pursuant to Act 9 of the Illinois SIP [Section 9(a) of the Illinois Environmental Protection Act, 415 ILCS 5/9(a)], “[n]o person shall: (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.”

22. The Illinois SIP at Rule 203(d)(9)(C) [35 Ill. Admin. Code § 212.463] requires operating permits for dryers with a total grain-drying capacity in excess of 750 bushels/hour at five percent moisture extraction.

23. The Illinois SIP at Rule 203(d)(9)(C)(i) [35 Ill. Admin. Code § 212.463(a)] has requirements for column dryers: “The largest effective circular diameter of transverse perforations in the external sheeting of a column dryer shall not exceed 0.094 inch, and the grain inlet and outlet shall be enclosed.”

Factual Background

24. Gavilon owns and operates a grain elevator located at 400 East Palmer Avenue, Alexis, Warren County, Illinois 61412 (the Facility).

25. The Facility is located more than two miles beyond the boundaries of Galesburg and East Galesburg, and thus is not located in a "major population area," as defined in the Illinois SIP at Part 211 (M words) [35 Ill. Admin. Code § 211.3610].

26. The Facility processes soybeans and corn with the aid of trucks, dump pits, belt conveyors, cleaners, screeners, dryers, and storage bins in a manner that creates particulate matter.

27. During fiscal year 2011, the Facility processed about 1,391,820 bushels of grain.

28. The Facility has three column dryers. One was installed in 1967 and is referred to as the Chicago dryer. It has a design capacity of 1800 bushels/hour at 5% moisture extraction. Another dryer, the Behlen dryer, was installed in 2003 and is no longer used by the Facility. The third dryer, the Brock dryer, was installed in August 2010 and has a design capacity of approximately 3,000 bushels/hour at 5% moisture extraction. The Behlen dryer does not have an air pollution construction permit from IEPA. The Chicago dryer and the Behlen dryer do not have air pollution operating permits from IEPA.

29. EPA representatives performed an inspection at the Facility on September 28, 2012, and observed the following:

- i. Operating Permits: Representatives of the Facility did not produce air pollution construction or operating permits for any of the dryers.
- ii. Dump pit area: The Facility has four dump pits and none of them have aspiration, baghouses, or dust control devices. Three pits do not have sheds over them. The pit with a shed does not have doors. During the inspection, EPA inspectors watched loading at two of the dump pits, the East Pit and the Bean Pit (by bins N1 and N2). Both loading operations resulted in visible emissions. In addition, three to four foot wide piles of grain had accumulated on the floor beneath the trucks during the loading and the grain in the piles slowly drained into the dump pit.
- iii. Dryer: Visible emissions were observed coming out of the inlet to the Brock dryer. A representative of the Facility told the EPA inspectors that the inlet to the Brock dryer and the inlet to the Chicago dryer are not enclosed.
- iv. Construction: A representative of the Facility told us that a wet bin was installed in 2007.
- v. Internal Transferring Area: during the inspection air emissions were observed coming out of the top of the distributor while the east dump pit was being loaded. Air contaminants from the internal transferring area were not collected and conveyed to air pollution control equipment with the requisite particulate collection efficiency.
- vi. Cleaning: The Facility has a cleaner and a representative of the Facility told us that approximately 500,000 bushels of corn/year are cleaned. The cleaner does

not have pollution controls. During the inspection a large pile of grain particles was sitting underneath the cleaner.

- vii. Load-out: Some of the load-out sleeves at the Facility were torn.
- viii. Housekeeping: Grains were scattered on the yard and roads of the Facility.
- ix. Driveways: Driveways were dusty and this resulted in particulate matter pollution as trucks drove over them. A representative of the Facility said that roads are not watered.
- x. Other visible emissions: Particulate matter was flying around the Facility such that it appeared to be "snowing" grain when the EPA representatives looked in the air. Grain particles covered the cars that were parked by the elevator office and covered the belongings of the EPA representatives when the inspection was completed.
- xi. Housekeeping Checklists: The Facility provided copies of its housekeeping checklists from July 30, 2012 to September 24, 2012. The checklists are completed weekly and do not include checks of the internal transferring area, the cleaning area, load-out sleeves, or air pollution controls.
- xii. The Facility did not have records of grain throughput, grain cleaned, grain dried, or PM emissions onsite.

Permit Background

30. On March 17, 2005, IEPA issued Gavilon a Construction Permit for a Grain Bin, permit #05030068.

31. On June 11, 2009, IEPA issued Gavilon a Lifetime General Operating Permit for Grain Elevator, permit #76010346, for a grain elevator with various pieces of equipment.

32. Paragraph 5b.i. of permit #76010346 states, "Grain drying shall be conducted in a column dryer with enclosed grain inlet and outlet..., pursuant to 35 Ill. Adm. Code 212.463(a)."

33. Paragraph 5c.ii. of permit #76010346 states, "The grain elevator shall be inspected for presence of visible emissions from internal transfer and cleaning, while such activity is occurring, at least once each week when such activity is performed."

34. Paragraph 5d.i. of permit #76010346 states, "Grain load-out shall be conducted with socks, sleeves or equivalent devices, extending to within at least 6 inches below the sides of the receiving vehicle except for topping off. Choke load-out may be performed as an equivalent method."

35. Paragraph 5d.ii. of permit #76010346 states, "Grain load-out socks, sleeves and equivalent devices shall be inspected for proper operation while load-out is occurring, at least once each week when grain load-out is performed."

36. Paragraph 8.a. of permit #76010346 states, "The Permittee shall maintain records of the following items for the grain elevator: ... ii. Records for the inspections required by Condition[s] 4(b), 5, and 6, with date, time and observations if such information is not incorporated in the housekeeping check list; ..."

37. Paragraph 8.b. of permit #76010346 states, "The Permittee shall maintain monthly records of the following items for the source:

- i. Total grain received, bushels/month and bushels/year (running total of 12 months data);
- ii. Grain dried, bushels/month and bushels/year (running total of 12 months data);
- iii. Grain cleaned, bushels/month and bushels/year (running total of 12 months data);
- iv. Grain shipped, bushels/month and bushels/year (running total of 12 months data); and
- v. PM emissions (tons/month, tons/year) with supporting calculations.

38. Paragraph 8.d. of permit #76010346 states, "These records shall be retained at a readily accessible location at the source at least 3 years and shall be available for inspections and copying by the Illinois EPA upon request."

Violations

39. By failing to obtain an air pollution construction permit for the Behlen dryer installed at the Facility in 2003, Gavilon is in violation of Rule 103(a)(1) of the Illinois SIP [35 Ill. Admin. Code § 201.142].

40. By failing to obtain air pollution operating permits for the Chicago dryer and the Behlen dryer, Gavilon is in violation of Rules 103(b)(1) and 203(d)(9)(C) of the Illinois SIP [35 Ill. Admin. Code §§ 201.143 and 212.463].

41. By not checking air pollution controls at the Facility daily, Gavilon is in violation of Rule 203(d)(9)(A)(i) of the Illinois SIP [35 Ill. Admin. Code § 212.461(a)(1)].

42. By failing to operate four dump pits with aspiration equipment and dust control devices at the Facility, Gavilon is in violation of Rule 203(d)(9)(A)(iii)(a) and (b) of the Illinois SIP [35 Ill. Admin. Code § 212.461(b)(3)(A) and (B)].

43. By failing to properly perform housekeeping, cleaning and maintenance on the floors, other exposed flat surfaces and yard to prevent the accumulation of grain and dust that would tend to rot or become airborne, Gavilon is in violation of Rule 203(d)(9)(A)(ii)(a) and 203(d)(9)(A)(ii)(c) of the Illinois SIP [35 Ill. Admin. Code §§ 212.461(b)(2)(A) and 212.461(b)(2)(C)].

44. By failing to treat the yard and driveway in order to control dust, Gavilon is in violation of Rule 203(d)(9)(v) of the Illinois SIP [35 Ill. Admin. Code § 212.461(b)(5)].
45. By not inspecting the internal transferring area of the Facility, the cleaning area, and the load-out sleeves once per week, Gavilon is in violation of Paragraphs 5c. ii. and 5d.ii. of operating permit #76010346.
46. By allowing particulate matter to be discharged or emitted into the environment from the Facility, so as to: (i) cause or tend to cause air pollution in Illinois either alone or in combination with contaminants from other sources; or (ii) violate regulations or standards under the Illinois Environmental Protection Act, 415 ILCS 5/1, et seq., or Title 35 of the Illinois Administrative Code, Gavilon is in violation of Act 9 and Rule 102 of the Illinois SIP [Section 9(a) of the Illinois Environmental Protection Act, 415 ILCS 5/9(a), and 35 Ill. Admin. Code § 201.141].
47. By failing to employ means or devices, including quick-closing doors, air curtains or wind deflectors, to prevent a wind velocity in excess of 50% of the induced draft face velocity at the dump pit areas of the Facility, Gavilon is in violation of Rule 203(d)(9)(B)(ii)(a)(4) of the Illinois SIP [35 Ill. Admin. Code § 212.462(b)(1)(D)].
48. By failing to apply induced draft to the dump pits that is collected and conveyed through air pollution control equipment which has an overall rated and actual particulate collection efficiency of not less than 90% by weight, Gavilon is in violation of Rule 203(d)(9)(B)(ii)(a)(2) of the Illinois SIP [35 Ill. Admin. Code §§ 212.462(b)(1)(A) and (B)].
49. By failing to collect and convey the contaminants from the internal transferring area of the Facility through air pollution control equipment which has a rated and actual particulate removal efficiency of not less than 90% by weight, Gavilon is in violation of Rule 203(d)(9)(B)(iii) of the Illinois SIP [35 Ill. Admin. Code § 212.462(c)(2)].
50. By failing to collect and convey the contaminants from the cleaning and separating operations of the Facility through air pollution control equipment which has an overall rated and actual particulate collection efficiency of not less than 90% by weight, Gavilon is in violation of Rule 203(d)(9)(B)(i)(b) of the Illinois SIP [35 Ill. Admin. Code § 212.462(a)(2)].
51. By failing to use or maintain socks or sleeves or equivalent devices that extend six inches below the sides of vehicles during loading at the Facility, Gavilon is in violation of Rule 203(d)(9)(B) (iv)(a) of the Illinois SIP [35 Ill. Admin. Code § 212.462(d)(1)] and Paragraph 5d.i. of operating permit #76010346.
52. By failing to enclose the grain inlets of the Chicago and Brock dryers, Gavilon is in violation of Rule 203(d)(9)(C) (i) of the Illinois SIP [35 Ill. Admin. Code § 212.463(a)].
53. By not having PM emission records, grain throughput, and the quantities of grain dried on site, Gavilon is in violation of Paragraph 8d. of operating permit #76010346.
54. By not having records of the quantities of grain cleaned, Gavilon is in violation of Paragraph 8b.iii. of operating permit #76010346.

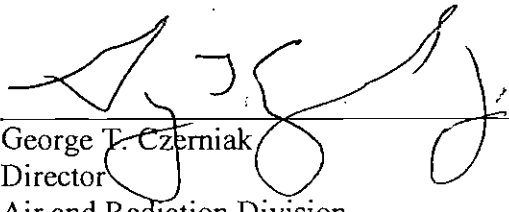
55. Violations of the Illinois SIP constitute violations of the CAA.

Environmental Impact of Violations

56. Violation of the pollution control requirements for grain elevators in the Illinois SIP increases public exposure to unhealthy particulate matter. Acute respiratory effects of the inhalation of particulate matter include narrowing of the airways and asthma attacks. Chronic respiratory effects include damage to lung tissue, increased pulmonary resistance, and fibrotic changes in lung tissue. Increased pulmonary resistance and fibrosis may lead to cardiovascular impairment.

Date

1/11/13


George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

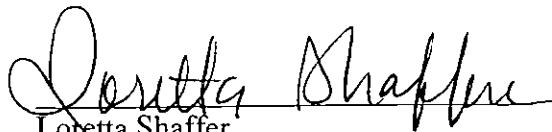
I, Loretta Shaffer, certify that I sent a Notice of Violation, No. EPA-5-13-IL-12 by Certified Mail, Return Receipt Requested, to:

Beth Pierson
Environmental Manager
The Gavilon Group, LLC
11 ConAgra Drive
Omaha, Nebraska 68102

I also certify that I sent copies of the Notice of Violation by first-class mail to:

Ray Pilapil, Manager
Bureau of Air
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1201 Grand Avenue East
Springfield, Illinois 62702

On the 15 day of January 2013



Loretta Shaffer
Administrative Program Assistant
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7674 0562